

4. On July 10, 2018, a copy of the Summons and Complaint (process) was posted at the front door or at such other door as appeared to be the main entrance of Lutzke's usual place of abode.

5. A photograph of the Summons and Complaint posted to Lutzke door on July 10, 2018 is attached hereto as Exhibit "A". On July 18, 2018, Plaintiffs' process server returned to Lutzke's usual place of abode and photographed the front door. The papers had been retrieved. A true photograph of Lutzke's front door as it appeared on July 18, 2018 is attached as Exhibit "B".

6. Process has also reached Lutzke via email. [See § 8.01-288 ("*process which has reached the person to whom it is directed within the time prescribed by law, if any, shall be sufficient although not served or accepted as provided in this chapter.*")]. Lutzke's email address is phz@tutanota.com. On July 11, 2018, Plaintiffs, by counsel, emailed a copy of the Summons and Complaint to Lutzke. The email was sent with no mailer-daemon or error message. A true copy of counsel's July 11, 2018 email is attached as Exhibit "C".

7. On August 21, 2018, Plaintiffs complied with § 8.01-296(2)(b) of the Virginia Code by mailing to Lutzke and filing with the Court the required statutory notice. [ECF Nos. 64 and 64-1]. The mailing was duly addressed to Lutzke at her usual place of abode, 2608 Leisure Drive, Apt. B, Fort Collins, CO 80525,¹ and was not returned. On August 21, 2018, a copy of the Certificate of Service and Mailing, Statutory Notice, Summons and Complaint, and Affidavit of service was also emailed to Lutzke.

¹ As reflected in the Affidavit of Service [ECF No. 62, p. 2 of 6], the mail box at the address was left open and Plaintiffs' process server observed mail inside with Lutzke's name on it.

This email was sent with no mailer-daemon or error message. A true copy of counsel's August 21, 2018 email is attached as Exhibit "D".

8. Pursuant to Rule 12(a), Lutzke was required to answer or otherwise respond to Plaintiffs' Complaint by no later than July 31, 2018.

9. To date, Lutzke has not answered or otherwise responded to Plaintiffs' Complaint. She is in default pursuant to Fed. R. Civ. P. 55(a):

"When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that fact is made to appear by affidavit or otherwise, the clerk must enter the party's default."

10. Lutzke is not a minor or in the military within the meaning of the Servicemembers Civil Relief Act. *50 Appx. U.S.C. § 521*.

WHEREFORE, Plaintiffs, Robert David Steele and Earth Intelligence Network, request the Clerk of the District Court to enter defendant, Susan A. Lutzke's, default.

DATED: September 3, 2018

ROBERT DAVID STEELE
EARTH INTELLIGENCE NETWORK

By: /s/Steven S. Biss

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CERTIFICATE OF SERVICE

I hereby certify that on September 3, 2018 a copy of the foregoing was filed electronically using the Court's CM/ECF system, which will send notice of electronic filing to counsel of record and all interested parties receiving notices via CM/ECF. I also certify that a copy of this pleading was emailed in PDF to defendants, Goodman and Lutzke.

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